

HOUSE BILL 294

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Nora Espinoza

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTIONS OF THE
CONTROLLED SUBSTANCES ACT TO RECLASSIFY DIHYDROCODEINONE AS A
SCHEDULE II CONTROLLED SUBSTANCE INSTEAD OF A SCHEDULE III
CONTROLLED SUBSTANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-31-7 NMSA 1978 (being Laws 1972,
Chapter 84, Section 7, as amended) is amended to read:

"30-31-7. SCHEDULE II.--

A. The following controlled substances are included
in Schedule II:

(1) any of the following substances, except
those narcotic drugs listed in other schedules, whether
produced directly or indirectly by extraction from substances
of vegetable origin, or independently by means of chemical

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1 synthesis, or by combination of extraction and chemical
2 synthesis:

3 (a) opium and opiate, and any salt,
4 compound, derivative or preparation of opium or opiate;

5 (b) any salt, compound, isomer,
6 derivative or preparation thereof that is chemically equivalent
7 or identical with any of the substances referred to in
8 Subparagraph (a) of this paragraph, but not including the
9 isoquinoline alkaloids of opium;

10 (c) opium poppy and poppy straw;

11 (d) coca leaves and any salt, compound,
12 derivative or preparation of coca leaves, and any salt,
13 compound, derivative or preparation thereof that is chemically
14 equivalent or identical with any of these substances, but not
15 including decocainized coca leaves or extractions that do not
16 contain cocaine or ecgonine;

17 (e) marijuana, but only for the use by
18 certified patients pursuant to the Controlled Substances
19 Therapeutic Research Act or by qualified patients pursuant to
20 the provisions of the Lynn and Erin Compassionate Use Act; and

21 (f) tetrahydrocannabinols or chemical
22 derivatives of tetrahydrocannabinol, but only for the use by
23 certified patients pursuant to the Controlled Substances
24 Therapeutic Research Act or by qualified patients pursuant to
25 the provisions of the Lynn and Erin Compassionate Use Act.

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1 Marijuana, tetrahydrocannabinols or chemical derivatives
2 of tetrahydrocannabinol shall be considered Schedule II
3 controlled substances only for the purposes enumerated in the
4 Controlled Substances Therapeutic Research Act or the Lynn and
5 Erin Compassionate Use Act;

6 (2) any of the following opiates, including
7 their isomers, esters, ethers, salts and salts of isomers,
8 whenever the existence of these isomers, esters, ethers and
9 salts is possible within the specific chemical designation:

- 10 (a) alphaprodine;
- 11 (b) anileridine;
- 12 (c) bezitramide;
- 13 (d) dihydrocodeine;
- 14 (e) diphenoxylate;
- 15 (f) fentanyl;
- 16 (g) hydromorphone;
- 17 (h) isomethadone;
- 18 (i) levomethorphan;
- 19 (j) levorphanol;
- 20 (k) meperidine;
- 21 (l) metazocine;
- 22 (m) methadone;
- 23 (n) methadone--intermediate,
24 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 25 (o) moramide--intermediate,

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1 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

2 (p) oxycodone;

3 (q) pethidine;

4 (r) pethidine--intermediate--A,

5 4-cyano-1-methyl-4-phenylpiperidine;

6 (s) pethidine--intermediate--B,

7 ethyl-4-phenyl-piperidine-4-carboxylate;

8 (t) pethidine--intermediate--C,

9 1-methyl-4-phenylpiperidine-4-carboxylic acid;

10 (u) phenazocine;

11 (v) piminodine;

12 (w) racemethorphan; and

13 (x) racemorphan;

14 (3) unless listed in another schedule, any
15 material, compound, mixture or preparation that contains any
16 quantity of the following substances having a potential for
17 abuse associated with a stimulant effect on the central nervous
18 system:

19 (a) amphetamine, its salts, optical
20 isomers and salts of its optical isomers;

21 (b) phenmetrazine and its salts;

22 (c) methamphetamine, its salts, isomers
23 and salts of isomers; and

24 (d) methylphenidate; [~~and~~]

25 (4) controlled substances added to Schedule II

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1 by rule adopted by the board pursuant to Section 30-31-3 NMSA
2 1978; and

3 (5) any material, compound, mixture or
4 preparation containing limited quantities of any of the
5 following narcotic drugs, or any salts thereof:

6 (a) not more than three hundred
7 milligrams of dihydrocodeinone, or any of its salts, per one
8 hundred milliliters or not more than fifteen milligrams per
9 dosage unit, with a fourfold or greater quantity of an
10 isoquinoline alkaloid of opium; or

11 (b) not more than three hundred
12 milligrams of dihydrocodeinone, or any of its salts, per one
13 hundred milliliters or not more than fifteen milligrams per
14 dosage unit, with one or more active, non-narcotic ingredients
15 in recognized therapeutic amounts.

16 B. Where methadone is prescribed, administered or
17 dispensed by a practitioner of a drug abuse rehabilitation
18 program while acting in the course of the practitioner's
19 professional practice, or otherwise lawfully obtained or
20 possessed by a person, such person shall not possess such
21 methadone beyond the date stamped or typed on the label of the
22 container of the methadone, nor shall any person possess
23 methadone except in the container in which it was originally
24 administered or dispensed to such person, and such container
25 shall include a label showing the name of the prescribing

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1 physician or practitioner, the identity of methadone, the name
2 of the ultimate user, the date when the methadone is to be
3 administered to or used or consumed by the named ultimate user
4 shown on the label and a warning on the label of the methadone
5 container that the ultimate user must use, consume or
6 administer to the ultimate user the methadone in such
7 container. Any person who violates this subsection is guilty
8 of a felony and shall be punished by imprisonment for not less
9 than one year nor more than five years, or by a fine of up to
10 five thousand dollars (\$5,000), or both."

11 SECTION 2. Section 30-31-8 NMSA 1978 (being Laws 1972,
12 Chapter 84, Section 8, as amended) is amended to read:

13 "30-31-8. SCHEDULE III.--The following controlled
14 substances are included in Schedule III:

15 A. any material, compound, mixture or preparation
16 containing limited quantities of any substance having a
17 stimulant effect on the central nervous system [~~which~~] that is
18 controlled and listed in Schedule II;

19 B. unless listed in another schedule, any material,
20 compound, mixture or preparation [~~which~~] that contains any
21 quantity of the following substances having a potential for
22 abuse associated with a depressant effect on the central
23 nervous system:

24 (1) any substance [~~which~~] that contains any
25 quantity of a derivative of barbituric acid, or any salt of a

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1 derivative of barbituric acid, except those substances ~~[which]~~
2 that are specifically listed in another schedule;

- 3 (2) chlorhexadol;
- 4 (3) glutethimide;
- 5 (4) lysergic acid;
- 6 (5) lysergic acid amide;
- 7 (6) methyprylon;
- 8 (7) phencyclidine;
- 9 (8) sulfondiethylmethane;
- 10 (9) sulfonethylmethane; or
- 11 (10) sulfonmethane;

12 C. nalorphine;

13 D. any material, compound, mixture or preparation
14 containing limited quantities of any of the following narcotic
15 drugs, or any salts thereof:

16 (1) not more than one and eight-tenths grams
17 of codeine, or any of its salts, per one hundred milliliters or
18 not more than ninety milligrams per dosage unit, with an equal
19 or greater quantity of an isoquinoline alkaloid of opium;

20 (2) not more than one and eight-tenths grams
21 of codeine, or any of its salts, per one hundred milliliters or
22 not more than ninety milligrams per dosage unit, with one or
23 more active, non-narcotic ingredients in recognized therapeutic
24 amounts;

25 [~~(3) not more than three hundred milligrams of~~]

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1 ~~dihydrocodeinone, or any of its salts, per one hundred~~
2 ~~milliliters or not more than fifteen milligrams per dosage~~
3 ~~unit, with a fourfold or greater quantity of an isoquinoline~~
4 ~~alkaloid of opium;~~

5 ~~(4) not more than three hundred milligrams of~~
6 ~~dihydrocodeinone, or any of its salts, per one hundred~~
7 ~~milliliters or not more than fifteen milligrams per dosage~~
8 ~~unit, with one or more active, non-narcotic ingredients in~~
9 ~~recognized therapeutic amounts;~~

10 ~~(5)]~~ (3) not more than one and eight-tenths
11 grams of dihydrocodeine, or any of its salts, per one hundred
12 milliliters or not more than ninety milligrams per dosage unit,
13 with one or more active, non-narcotic ingredients in recognized
14 therapeutic amounts;

15 [~~(6)]~~ (4) not more than three hundred
16 milligrams of ethylmorphine, or any of its salts, per one
17 hundred milliliters or not more than fifteen milligrams per
18 dosage unit, with one or more active non-narcotic ingredients
19 in recognized therapeutic amounts;

20 [~~(7)]~~ (5) not more than five hundred
21 milligrams of opium per one hundred milliliters or per one
22 hundred grams, or not more than twenty-five milligrams per
23 dosage unit, with one or more active, non-narcotic ingredients
24 in recognized therapeutic amounts; or

25 [~~(8)]~~ (6) not more than fifty milligrams of

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1 morphine, or any of its salts, per one hundred milliliters or
2 per one hundred grams with one or more active, non-narcotic
3 ingredients in recognized therapeutic amounts;

4 E. controlled substances added to Schedule III by
5 rule adopted by the board pursuant to Section 30-31-3 NMSA
6 1978; and

7 F. the board may exempt by regulation any compound,
8 mixture or preparation containing any stimulant or depressant
9 substance listed in Subsections A and B of this section from
10 the application of any part of the Controlled Substances Act if
11 the compound, mixture or preparation contains any active
12 medicinal ingredients not having a stimulant or depressant
13 effect on the central nervous system and if the admixtures are
14 included in combinations, quantity, proportion or concentration
15 that vitiate the potential for abuse of the substances [~~which~~
16 that have a stimulant or depressant effect on the central
17 nervous system."